

9/2/08

**Avoided Forest Conversion through On-Site Clustering and Smart Growth Offset
Transfer of Development Rights Program
(7/25/08 version with added footnotes)**

I. On-Site Clustering.

The Forestry Working Group recommends that an avoided conversion offset or credit be created for on-site clustering that results in permanent protection of working forest land. The offset or credit would be available to forest landowners and would be based on the difference in the amount of forestland (carbon) lost per housing unit based on development under a business as usual (BAU) scenario allowable under local zoning and development regulations and voluntary "clustered" development that would accommodate the same (or in some cases greater) number of housing units on a smaller footprint. The offset or credit would be awarded based on the following conditions:

1. The offset or credit should be limited to forested tracts ~~within Urban Growth Areas (UGAs) and rural areas designated in areas other than those designated "resource lands"~~ under the Growth Management Act (GMA). Clustered development proposals involving GMA-designated forest lands or other GMA-designated resource lands of long-term significance ~~should~~would not be eligible for an offset or credit.
2. Within rural areas, clustering ~~should~~would not increase the number of developable lots ~~provided in local zoning or through the application of physical criteria.~~
3. Forested tracts not developed as a result of the clustering should be permanently protected with a forest conservation easement or other legal instrument with similar enforceability and durability (e.g. donation to a forest land trust).
4. Forested tracts ~~become~~ eligible for the clustered development offset or credit ~~when they are planned for conversion under local development laws, and a~~ Payment should ~~result~~ occur after the clustered development has been completed at ~~"high risk" of conversion. Areas at high risk of conversion should be determined based on analysis of county or metropolitan area trends and existing land use and zoning requirements.~~
5. The state and local governments will advertise the availability of the opportunity for carbon offset payments for clustered development. Landowners contemplating clustered development may state their intention to the appropriate organization administering the carbon offset program in order to estimate the potential carbon offset payments that may be available for the intended clustered development.
6. ~~5.~~ The offset should be based on an estimate of the difference in the actual area ~~likely to be converted under between the business as usual scenario and the clustered development scenario, not on the total lot size.~~
7. No other restrictions on commercial forest management on the non-developed area result from this action.

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8. Offset credits will be based on average business as usual forest inventory information by forest type.

9. Further credits for forest management on the non-developed area may be available. See the recommendations on Forest Management.

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II. Transfer of Development Rights Program

The Forestry Working Group also recommends that the State develop a program to provide incentives to local jurisdictions that implement a Transfer of Development Rights (TDR) program that reduces pressure for forest conversion within the state and thus statewide GHG emissions from forest conversion. The program would be funded initially through State seed grants to participating cities and counties and later through the issuance and sale by the state of emission reduction credits amassed on a project-by-project basis based on the transfer of development rights from forest land to non-forested land within Urban Growth Areas (UGAs) and the permanent conservation of working forest land through forest conservation easements. Because the program would be targeted at the county and city level, it would match desired land use outcomes with emission reduction incentives. The state would propose development of this program to support local TDR efforts in explicit reliance on the expectation of receiving carbon offset payments for project areas and carbon storage conserved, so as to ensure the project-level TDR transactions actually occur. The program would have the following features:

I. Recommended Offset Program Policy

1. The State should establish a program that credits on a project-by-project basis emission reductions due to avoided forest conversions achieved through Transfer of Development Rights Smart Growth policies, based on the Transfer of Development Rights (TDR) into Urban Growth Areas (UGAs) where growth is already expected to occur, to ensure permanent working forest conservation while accommodating displaced development in a smaller carbon footprint.
2. Emission reductions would be credited on a project-by-project basis based on the number of conservation easements created and net carbon storage retained under the program and require: (a) a transfer of development rights¹ from working forest land¹ that is at high-substantial² risk of conversion, to non-forested land within a UGA; and (b) permanent conservation of the forest land through a forest conservation easement.³(need footnote about what is intended by "high or substantial risk")

¹ The incentive for the landowner to avoid conversion would be the revenue received from the sale of the development rights.

² "Substantial" means that the forest area from which development rights are transferred must be physically capable of being converted to development and that the conversion risk must be evident from legal and/or economic indicators and expected to occur in the foreseeable future. However, the forest area should not be located so close to current development that commercial forest management is unlikely due to social forces. Within those limits, local government TDR programs are expected to determine desirable "sending" areas as well as the number of development units to be transferred.

³ As described during the subgroup conference call on 7/28/08, both the TDR and the conservation easement would be accomplished in the context of a single transaction. The easement would be a forestry

3. Local jurisdictions would receive the credit only if they adopt and maintain a Transfer of Development Rights Smart-Growth program that meets state standards (see ¶ 6) and implemented the program in a way that facilitated an avoided conversion transactions meeting the above test can show that the Transfer of Development Rights program is responsible for achieving measurable reductions in the conversion rate that are additional to what would have occurred under a Business As Usual (BAU) scenario. The demonstration of additionality will be made at the county level and will be based on emissions from "traditional", business-as-usual conversion of the forest land area in the state or local area, based on analysis of county-level data. This county-level data analysis should:

- a. Be based on the best available sources of information including but not limited to a combination of Forest Inventory Assessment (FIA) data, forest zoning and Current Use Taxation (CUT) data, and parcel-level data currently being developed by UW College of Forest Resources in partnership with the Family Forest Foundation.
- b. Include information about current zoning, issuance of rural and forest zone building permits or other proxies for establishing background rate of conversion at the county level.
- c. Separate changes in conversion rates attributable to the Smart-Growth TDR program from those attributable to market forces.
- d. Include information on lot and road clearing generated from traditional BAU rural and forest zone development.

3.4. The State would bundle these reductions and sell them as emission reduction credits on the national or international offset market and distribute the revenues back to the participating jurisdictions based on actual development right transfers and conservation easements accomplished. The State would also provide seed money to participating jurisdictions, to encourage early adoption while avoiding issuance of credits that are not based on actual conversion avoidance. The source of this seed money would be determined by the state legislature.

4.5. Participating local jurisdictions shall would be allowed to use program revenue for implementation of TDR transactions or specific uses that meet program objectives, such as program implementation, planning or addressing TDR receiving area needs.

5.6. Recommended features of Transfer of Development Rights program:

- A. Program requirements and performance standards should promote permanent, verifiable reduction of statewide emissions from forest conversion within participating local jurisdictions that are not subject to leakage from displaced development. Performance standards should address essential carbon relevant features (such as D below) of a qualified Transfer of Development Rights program and permanent conservation forestry easement that restricts development permanently, including:

- I. Leakage: demonstration that the displaced development has been accommodated in a smaller carbon footprint.

conservation easement (allowing any forest practices consistent with other laws). The easement would be perpetual.

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2. Permanence: standards for conservation easement language, monitoring and enforcement, and eligible holders.
 3. Additionality: Demonstration that the jurisdictions' implementation of Transfer of Development Rights Program are above and beyond BAU, as indicated by county level analysis of BAU forest land conversion rates and reductions in conversion rates and associated carbon emissions attributable to the program.
- B. A statewide baseline and monitoring program for forest conversion emissions that takes into account county-specific conversion rates and risks, and tracking of emission reductions achieved through TDR.
- ~~C.B.~~ Data needs for jurisdictional reporting requirements of forest conversion trends and forest conservation achieved through transfers of development rights (NOTE: This seems redundant with the material in #3 above. Is this needed here?) TDR.
- ~~D.C.~~ Allocation of program revenue to participating jurisdictions, based on actual development right transfers and conservation easements accomplished. (NOTE: This seems redundant with the material in #4 above. Is this needed here?)
- D. Standards for all GMA planning counties, and cities within these jurisdictions, to adopt a Transfer of Development Rights program policies to promote forest conservation, including standards to address
- a. Leakage: demonstration that the displaced development has been accommodated in a smaller carbon footprint.
 - b. Permanence: standards for conservation easement language, monitoring and enforcement funding, and eligible holders.
 - Additionality: Demonstration that the jurisdictions implementation of Smart Growth Offset Transfer of Development Rights Program are above and beyond BAU business as usual, as indicated by county level analysis of BAU forest land conversion rates and reductions in conversion rates and associated carbon emissions attributable to the program. current zoning, issuance of rural and forest zone building permits, etc.
- ~~E.D.~~ Means for ensuring that jurisdictions acting to advance forest conservation through TDR be prioritized for the State's limited infrastructure resources. (NOTE: Should this be included instead as a footnote, to indicate that developing recommendations for this kind of additional incentive is under the jurisdiction of the state's TDR working group?)
7. The State should establish a statewide forest conversion baseline and conduct monitoring of forest conversions emissions that takes into account county-specific conversion rates and risks and continue to monitor forest emissions over time. If the State-wide forest conversion monitoring does not indicate an overall reduction in forest conversion trends over a trial period (e.g. 10 to 15 years) as a result of this program the Transfer of Development Rights program may should be terminated or modified and improved or other policy tools explored.
 8. Participating jurisdictions may not implement regulation that devalues property as a means of achieving emission reductions (NOTE: *This is Edie's original language, which has yet to be further discussed by avoided conversion subgroup members.*)
- 2. Tracking, Calculating and Crediting of reductions in emissions from forest conversion**

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Crediting of reductions should be based on verification of working forest conservation easements achieved by TDR, through a process approved by WCI.

- A. Emission reductions should be tracked and calculated against emissions from “traditional”, business-as-usual conversion of the forest land area in the state, based on county-level assessments. The assessment and monitoring should:
 - a. Be based on a combination of Forest Inventory Assessment (FIA) data, forest zoning and Current Use Taxation (CUT) data, and parcel-level data currently being developed by UVA College of Forest Resources in partnership with the Family Forest Foundation.
 - b. Include information about current zoning, issuance of rural and forest zone building permits or other proxies for establishing background rate of conversion at the county level.
 - c. Include information on lot and road clearing generated from traditional rural and forest zone development.
- B. Crediting of reductions should be based on verification of working forest conservation easements achieved by TDR, through a process approved by WCI.
- C. The state should
 - a. Award funds to participating jurisdictions on a project-by-project basis based on actual development-right transfers and conservation easements accomplished.
 - b. Sell emission credits equivalent to reductions in statewide forest conversion emissions confirmed through applications submitted by participating jurisdictions.
- D. If the State-wide forest conversion monitoring does not indicate an overall reduction in forest conversion trends over a trial period (e.g. 10 to 15 years) the program should be terminated or modified and improved.

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